

UNITED STATES COURT OF APPEALS  
**Filed 8/14/96**  
FOR THE TENTH CIRCUIT

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CLARENCE M. KING, JR.,

Plaintiff-Appellant,

v.

SHIRLEY S. CHATER, Commissioner  
of Social Security,\*

Defendant-Appellee.

No. 95-5282  
(D.C. No. 94-C-586-J)  
(N.D. Okla.)

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ORDER AND JUDGMENT\*\*

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Before PORFILIO, BRIGHT,\*\* and KELLY, Circuit Judges.

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\* Effective March 31, 1995, the functions of the Secretary of Health and Human Services in social security cases were transferred to the Commissioner of Social Security. P.L. No. 103-296. Pursuant to Fed. R. App. P. 43(c), Shirley S. Chater, Commissioner of Social Security, is substituted for Donna E. Shalala, Secretary of Health and Human Services, as the defendant in this action. Although we have substituted the Commissioner for the Secretary in the caption, in the text we continue to refer to the Secretary because she was the appropriate party at the time of the underlying decision.

\*\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

\*\*\* Honorable Myron H. Bright, Senior Circuit Judge, United States Court of Appeals for the Eighth Circuit, sitting by designation.

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After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f) and 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

We affirm for substantially the reasons given by the district court.

The judgment of the United States District Court for the Northern District of Oklahoma is affirmed.

Entered for the Court

Paul J. Kelly, Jr.  
Circuit Judge